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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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August 24, 1993

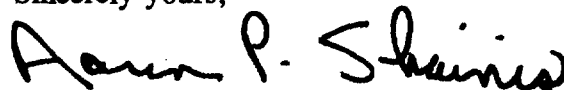
Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554Re: MM Docket No. 93-71
RM-8134

Dear Ms. Searcy:

On behalf of Circle S Broadcasting Co., petitioner in the above-captioned proceeding, transmitted herewith are an original and four (4) copies of its "Supplement to Reply."

Should any questions arise concerning this matter, please communicate with the undersigned.

Sincerely yours,



Aaron P. Shainis

Counsel for

CIRCLE S BROADCASTING CO.

Enclosure

RECEIVED

AUG 24 1993

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

)
Amendment of Section 73.202(b))
FM Table of Allotments)
FM Broadcast Stations)
(Wickenburg, Arizona))

MM Docket No. 93-71
RM-8134

To: The Commission

SUPPLEMENT TO REPLY

Circle S Broadcasting Co. ("Petitioner"), licensee of Station KMEO(FM), formerly KFMA(FM), submits a Supplement to its June 7, 1993, "Reply." In support, the following is respectfully submitted.

Associated with the instant submission is a Determination of No Air Hazard issued by the Federal Aviation Administration with respect to the proposed KMEO(FM) tower.

Respectfully submitted,



Aaron P. Shainis
Counsel for
CIRCLE S BROADCASTING CO.

SHAINIS & PELTZMAN
Suite 500
1255 23rd Street, N. W.
Washington, D. C. 20037
202/857-2946



US Department
of Transportation

Federal Aviation
Administration

FAA, Airspace & Procedures, AWP-530
P.O. Box 92007, WAFPC
Los Angeles, CA 90009

IN REPLY REFER TO
AERONAUTICAL STUDY
NO. 93-AWP-0532-OE

DETERMINATION OF NO HAZARD TO AIR NAVIGATION

SPONSOR	Mr. Harold R. Shumway, President Circle S Broadcasting Company, Inc. Radio Station K M E O (FM) 801 West Wickenburg Way Wickenburg, Arizona 85358		CONSTRUCTION LOCATION	
			PLACE NAME	
			Wickenburg, Az.	
	NAD 27 NAD 83		LATITUDE	LONGITUDE
		33 51 31	112 53 04	
		33 51 31.1	112 53 06.6	
CONSTRUCTION PROPOSED	DESCRIPTION		HEIGHT (IN FEET)	
	FM ANTENNA TOWER 94.1 Mhz 2.5 Kw		ABOVE GROUND	ABOVE MSL
			843	3426

An aeronautical study of the proposed construction described above has been completed under the provisions of Part 77 of the Federal Aviation Regulations. Based on the study it is found that the construction would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the construction would not be a hazard to air navigation provided the following conditions are met:

Conditions:

Tower should be obstruction lighted in accordance with FAA Advisory Circular 70/7460-1H Chapters 4, 7, & 13 with high intensity white strobe lights for day and nighttime.

Supplemental notice of construction is required any time the project is abandoned (use the enclosed FAA form), or

- ☒ At least 48 hours before the start of construction (use the enclosed FAA form).
- ☒ Within five days after the construction reaches its greatest height (use the enclosed FAA form).

This determination expires on **March 1, 1994**

unless:

- (a) extended, revised or terminated by the issuing office;
- (b) the construction is subject to the licensing authority of the Federal Communications Commission and an application for a construction permit is made to the FCC on or before the above expiration date. In such case the determination expires on the date prescribed by the FCC for completion of construction, or on the date the FCC denies the application.

NOTE: Request for extension of the effective period of this determination must be postmarked or delivered to the issuing office at least 15 days prior to the expiration date.

This determination is subject to review if an interested party files a petition on or before **August 19, 1993**. In the event a petition for review is filed, it should be submitted in triplicate to the Manager, Flight Information and Obstructions Branch, AAT-210, Federal Aviation Administration, Washington, D.C. 20591, and contain a full statement of the basis upon which it is made.

This determination becomes final on **August 29, 1993** unless a petition for review is timely filed, in which case the determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review.

An account of the study findings, aeronautical objections, if any, registered with the FAA during the study, and the basis for the FAA's decision in this matter will be found on the following page(s).

If the structure is subject to the licensing authority of the FCC, a copy of this determination will be sent to that Agency.

This determination, issued in accordance with FAA Part 77, concerns the effect of this proposal on the safe and efficient use of the navigable airspace by aircraft and does not relieve the sponsor of any compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

CONTINUED

SIGNED Harvey R. Riebel

TITLE Manager System Management Branch

ISSUED IN Hawthorne, Ca.

ON July 20, 1993

The proposed 843 foot above ground level (AGL) 3426 foot above mean sea level (AMSL) tower would be located 8.7 nautical miles southwest of the Wickenburg Airport, Wickenburg, Arizona. The proposal is identified as an obstruction by exceeding the standards of Federal Aviation Regulations (FAR) Part 77, subpart C, as follows:

77.23 (a)(1) by 343 feet, a height greater than 500 feet above ground level.

A notice dated June 8, 1993 was issued inviting comments to be received by the Federal Aviation Administration (FAA) on or before July 15, 1993. The following comments were received.

Richard G. Kiely objected to the proposal based on the location and height. He states that the proposed tower would be located directly under the Buckeye Vortac 349 degree Radial which is used by pilots to navigate from the Vortac to the Wickenburg Airport during periods of reduced visibility. It is his opinion that the proposed tower would be an extremely dangerous obstacle for pilots flying in that area on days when the visibility is poor yet still within VFR conditions.

Arizona Pilots Association objected to the proposal based on the proximity of the tower to Vulture Mine Road and the fact that during inclement weather conditions, pilots follow this route to transit the area. It is their contention that the proposed tower would be located in an area where aircraft would be forced to operate in deteriorating visibility conditions thus resulting in an unacceptable safety hazard.

F. Kenneth Hill objected to the proposal because of the fact that many private aircraft tour the area at legal altitudes far below the height of the proposed new tower. He also stated that the existing tower located 2.8 nautical miles south of the Wickenburg Airport is nearly invisible in the intense afternoon sun.

Nancy N. Eppard, Vice Chairman, Wickenburg Airport Advisory Commission objected to the proposal based on the fact that the area is sparsely populated and has an unusually heavy amount of low level flying as follows:

1. Aircraft give scenic flights out over the Vulture Mine, Vulture Peak, Rancho De Los Cabellaros, and Flying E. Ranch.
2. During times of limited visibility, low ceilings, and thunderstorm activity, aircraft from the south follow Vulture Mine Road north which leads them right into the Airport. The present 499' FM Tower is located on top of a hill on the west side of Vulture Mine Road, and is virtually impossible to see during daylight hours.
3. The closest published navaid to Wickenburg is the 348 degree radial and 31 miles from Buckeye. The existing 499 foot tower is directly beneath this course.
4. Aircraft without Mode C use this route when flying up from southern parts of the state to avoid the Phoenix TCA.

In addition, Ms. Eppard addressed the location of the traffic pattern and the possibility of maybe moving it back to the south side of the airport in the future. It was also noted that the 1992 Wickenburg Airport Master Plan includes a non precision instrument approach for the airport. The Wickenburg Airport Advisory Commission therefore considers the proposed tower to be an additional hazard to aircraft using the Wickenburg Airport.

STUDY

During the course of the study, the FAA evaluated the impact of the proposed structure on Visual and Instrument flight procedures both terminal and enroute, Navigational Aids, existing and proposed public use aeronautical facilities, and the cumulative impact of the proposed structure with other proposed or existing structures.

VFR IMPACT

The aeronautical study concludes that the proposed tower would have no adverse impact to either terminal or enroute VFR procedures. The proposed site is outside of the airspace to be protected for VFR traffic patterns and Enroute procedures.

IFR IMPACT

FAA study concludes that the proposed tower would have no adverse impact to terminal or enroute Instrument procedures.

NAVIGATIONAL AID IMPACT

The study conducted by the FAA found the proposed tower would have no adverse impact to FAA air navigation aids nor is there any predicted interference to ground or airborne radio communications.

The comments objecting to the proposal were evaluated and are addressed below:

The proposed structure does in fact exceed the standards of FAR Part 77 as stated above and is in fact identified as an obstruction by being more than 500 feet above ground level. The objections to the proposed tower were based primarily on the fact that it would be located in an unpopulated area where there is much VFR traffic. The objections were based on the fact that pilots utilize Vulture Mine Road and the Buckeye Vortac 348/349 degree radials for navigation during inclement weather conditions. Objections were also based on the visibility of the tower during bright sunny days.

The proposed tower would be located beyond the airspace to be protected for the traffic pattern in its present configuration and also if it were to be changed to the south of the airport in the future.

The proposed tower would be located 3.2 statute miles west of Vulture Mine Road and 4.8 statute miles west of the Buckeye 348/349 degree radials. It should also be noted that it is 29.5 nautical miles from the nearest point of the Phoenix TCA. It would also be located 8 nautical miles west of Alert Area A-231 and 8 nautical miles east of the Gladden 1 MOA.

In accordance with FAA Handbook 7400.2, the airspace to be protected for VFR Flyways is 2 statute miles either side of an established navigational aid radial or 2 statute miles either side of prominent visual landmarks such as roads, railroads, or rivers. This enables the pilot to navigate along these routes with flight visibility as low as 1 statute mile. Utilizing this procedure, the pilot must remain within 1 statute mile of the visual landmark or navigational aid radial. By protecting 2 statute miles either side of the route, the pilot can be assured of at least 1 mile clearance from obstructions while maintaining visual contact with the landmark. In areas other than established VFR Flyways, it is the pilots responsibility to see and avoid persons, vessels, vehicles, and structures by at least 500 feet. In the case of the proposed structure, it is located well outside of the airspace to be protected for VFR Flyways and would not have a substantial adverse impact on those operations.

In response to the proposal for a non-precision approach to the airport in the future, the proposed structure would have no impact on that procedure. Although there is no official request on file with the FAA for an instrument approach at this time, a review of the area indicates that the height of the terrain in the area of the airport would be the determining factor for the construction of the procedure, and the proposed tower would have no greater impact than the terrain.

CONCLUSION

Although the proposed structure has been identified as an obstruction, study results conclude the proposal would not adversely affect the safe and efficient use of navigable airspace and would not be a hazard to air navigation.

This determination does not include temporary construction equipment, such as cranes, derricks, etc., which may be used during the actual construction phase of this proposal. such equipment which has a height greater than the proposed structure and a height which would exceed the notice standard of Part 77 of the Federal Aviation Regulations requires separate notice.

Aeronautical Study
number 93-AWP-0532-OE
Page 6

This determination issued in accordance with Part 77 of the Federal Aviation Regulations, concerns the effect of the proposal on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of any compliance responsibilities relating to any law, ordinance, or regulation of any Federal, state, or local government body.

This decision is based solely on the foregoing description of the structure, which includes location, height, ERP, and operating frequency. The FAA hereby requests that notice be given for any future construction or alteration that would exceed the above described heights, include any increase to the ERP, alter the transmitting frequency, and/or add other transmitting devices.

§77.13 Construction or alteration requiring notice.

(b) Each sponsor who proposes construction or alteration that is the subject of a notice under paragraph (a) of this section and is advised by an FAA regional office that a supplemental notice is required shall submit that notice on a prescribed form to be received by the FAA regional office at least 48 hours before the start of the construction or alteration.

(c) Each sponsor who undertakes construction or alteration that is the subject of a notice under paragraph (a) of this section shall, within 5 days after that construction or alteration reaches its greatest height, submit a supplemental notice on a prescribed form to the FAA regional office having jurisdiction over the area involved, if —

- (1) The construction or alteration is more than 200 feet above the surface level of its site;
or
(2) An FAA regional office advises him that submission of the form is required.

§77.17 Form and time of notice.

(e) Each person who is required to notify the Administrator by paragraph (b) or (c) of § 77.13, or both, shall send an executed copy of FAA Form 7460-2, Notice of Actual Construction or Alteration, to the Chief, Air Traffic Division, FAA Regional Office having jurisdiction over the area involved.

SUPPLEMENTAL NOTICE — General Instructions

FOR YOUR CONVENIENCE IN MEETING SUPPLEMENTAL NOTICE REQUIREMENTS OF FAR PART 77, THIS FORM IS SET UP IN TWO PARTS. PLEASE ENSURE ALL ENTRIES ARE LEGIBLE THROUGHOUT THE FORM SET.

SUBMISSION INSTRUCTIONS ARE CONTAINED AT THE TOP OF EACH PART. INFORMATION IN SECTION 2 (CONSTRUCTION LOCATION — HEIGHT) IS VITAL FOR ACCURATE CHARTING AND TO ADJUST, IF NECESSARY, OPERATIONAL PROCEDURES AND MINIMUM FLIGHT ALTITUDES.

PART 1 TO REPORT ACTUAL START OF CONSTRUCTION OR ALTERATION

PART 2 TO REPORT A STRUCTURE REACHING ITS GREATEST HEIGHT
OR
TO REPORT A CONSTRUCTION/PROJECT ABANDONED OR DISMANTLED

SUPPLEMENTAL NOTICE

SUBMISSION INSTRUCTION: For Advance Notice of Actual Construction or Alteration. Please type or firmly print information requested. Complete items 1, 2, 3A(1), 3A(2), and 6. If applicable, also complete items 4 and 5. Detach part 1. Fold and tape at bottom. Mail to the FAA Regional Office for your area. Part 1A is provided for your file.

Aeronautical Study No.

93-AWP-0532-OE



US Department of Transportation
Federal Aviation Administration

NOTICE OF ACTUAL CONSTRUCTION OR ALTERATION

1. CONSTRUCTION

Type and Description of Construction

2. CONSTRUCTION LOCATION — HEIGHT

A. Coordinates (To tenths of seconds, if known)

Latitude

Longitude

° ' " . " ° ' " . "

B. Location (Distance and direction from nearest city or town. Include street address if any.)

C. Construction Height

Above Ground Level

Total Height
(Construction & Site)
Above Mean Sea Level

AGL

Ft.

AMSL

Ft.

D. Site Elevation Determined By

☐ Actual Survey☐ Map Contour☐ Other

E. Name of Nearest Public-Use Airport - include Distance and Direction

3. CONSTRUCTION NOTIFICATIONS

A. Notification (Notice is Critical to flight Safety—FAR Part 77 Required ★)

Date

B. Construction/Project

Date

★ (1) Construction will start (Submit at least 48 hrs. in advance)

(1) Project Abandoned

(2) Estimated Completion

★ (3) Structure Reached Greatest Height (Submit within 5 days)

(2) Construction Dismantled

4. MARKING AND LIGHTING

A. Marked

☐ Yes☐ No☐ Temporary

B. Lighted

☐ High Intensity White☐ Red☐ Temporary☐ Dual (High Intensity White and Red)☐ None

5. ANTENNA REQUIRING FCC LICENSE

A. Call Sign

B. Frequency

C. Date Applied for FCC Construction Permit

D. Date Construction Permit Issued

6. PREPARER'S CERTIFICATION

SUBMITTED BY: (If submitted by a proponent's representative, please also complete item B.)

A. Proponent's Representative

Name:

Address:

Tel. No.:

(Include Area Code)

B. Construction Proponent

Name:

Address:

Tel. No.:

(Include Area Code)

I CERTIFY INFORMATION PROVIDED IS TRUE, COMPLETE, AND CORRECT TO THE BEST OF MY KNOWLEDGE

Signature

Title

Date

NOTICE is required by Part 77 of the Federal Aviation Regulations (14 C.F.R. Part 77) pursuant to Section 1101 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1101). Persons who knowingly and willfully violate the notice requirements of Part 77 are subject to a fine (criminal penalty) of not more than \$500 for the first offense and not more than \$2,000 for subsequent offenses, pursuant to Section 902(A) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(A)).

CERTIFICATE OF SERVICE

I, Linda E. Skiles, Office Administrator of the law firm of Shainis & Peltzman, do hereby certify that copies of the foregoing document were mailed this 24th day of August, 1993, to the offices of the following:

Mr. Michael C. Ruger *
Chief, Allocations Branch
Federal Communications Commission
Mass Media Bureau
Room 8322
2025 M Street, N. W.
Washington, D. C. 20554
1800D5

Vulture Peak Restoration Group
c/o Marlin J. Gaynes, Esq.
Wilkes, Artis, Hedrick & Lane, Chartered
Suite 1100
1666 K Street, N.W.
Washington, D. C. 20006

Wickenburg Town Council
c/o Harry E. Craig, Esq.
155 N. Tegu Street
P. O. Box 1269
Wickenburg, AZ 85358


Linda E. Skiles

* Via Hand Delivery